

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LEONARD J. COUSINO,

Plaintiff,

Case No. 1:15-cv-907

v

HON. JANET T. NEFF

TOWNSHIP OF MARSHALL,

Defendant.

/

OPINION AND ORDER

Plaintiff, proceeding pro se, initiated this action on September 4, 2015, alleging various claims relating to a zoning dispute between himself and Defendant Marshall Township (Dkt 1). The case was referred to the Magistrate Judge (Dkt 3). Plaintiff filed an Amended Complaint on February 9, 2016 (Dkt 13). On June 17, 2016, Defendant filed a Motion to Dismiss or in the Alternative for Summary Judgment (Dkt 33), to which Plaintiff filed a response (Dkt 36), and Defendant filed a reply (Dkt 40). On September 8, 2016, Defendant filed a Motion for Summary Judgment (Dkt 45), to which Plaintiff filed a response (Dkt 49), Defendant filed a reply (Dkt 51), and Plaintiff filed a sur-reply (Dkt 52). On March 7, 2017, the Magistrate Judge issued a Report and Recommendation (R&R, Dkt 60), recommending that this Court grant in part and deny without prejudice in part Defendant's motions. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation (Dkt 62), to which Defendant filed a response (Dkt 65). Also pending before the Court is Plaintiff's March 14, 2017 motion (Dkt 61), seeking reconsideration of a March 1, 2017 Order of this Court denying his "Request for Preliminary

Injunction and to Amend Complaint.” There is no provision for a response to a motion for reconsideration. *See* W.D. Mich. LCivR 7.4(b).

In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court determines that the Magistrate Judge carefully and thoroughly considered the record, the parties’ arguments, and the law governing Plaintiff’s claims. The assertions in Plaintiff’s objections do not persuade the Court otherwise. Rather, Plaintiff’s objections merely reiterate and expand the positions he adopted in his motion papers, without demonstrating any factual or legal error in the Magistrate Judge’s analysis. Plaintiff proffers no argument that would warrant rejecting the Magistrate Judge’s determinations that Plaintiff’s Amended Complaint fails to state any claim under 42 U.S.C. § 1983 (R&R, Dkt 60 at PageID.543); Defendants are entitled to judgment as a matter of law on Plaintiff’s § 1983 claims (*id.* at Page ID.546); Plaintiff’s § 1983 claims may be properly dismissed as untimely under the applicable limitations period (*id.* at Page ID.546); and Plaintiff’s state-law claims should be dismissed without prejudice (*id.*). Accordingly, the Court will adopt the Magistrate Judge’s Report and Recommendation as the Opinion of this Court.

Plaintiff’s motion for reconsideration merely presents the same issues previously ruled on by the Court in denying his “Request for Preliminary Injunction and to Amend Complaint.” Plaintiff has failed to demonstrate a palpable defect by which the Court and the parties have been misled, and that a different disposition of his motion would result from a correction thereof. *See* W.D. Mich. LCivR 7.4(a). Plaintiff’s motion is therefore properly denied.

Because this Opinion and Order resolves the pending claims in this case, the Court will also enter a Judgment consistent with this Opinion and Order. *See* FED. R. CIV. P. 58.

Therefore:

IT IS HEREBY ORDERED that Plaintiff's Motion for Reconsideration (Dkt 61) is DENIED.

IT IS FURTHER ORDERED that the Objections (Dkt 62) are DENIED, and the Report and Recommendation (Dkt 60) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Defendant's Motion to Dismiss or in the Alternative for Summary Judgment (Dkt 33) is GRANTED IN PART and DENIED WITHOUT PREJUDICE IN PART for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that Defendant's Motion for Summary Judgment (Dkt 45) is GRANTED IN PART and DENIED WITHOUT PREJUDICE IN PART for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED, pursuant to 28 U.S.C. § 1367(c)(3), that this Court declines to exercise supplemental jurisdiction over Plaintiff's remaining state-law claims, and the state-law claims are DISMISSED WITHOUT PREJUDICE.

Dated: March 28, 2017

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge